

____ BILL NO. ____

INTRODUCED BY _____

(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING THE HERITAGE COMMISSION; REMOVING THE REQUIREMENT THAT THE PROPERTY ACQUIRED BY THE COMMISSION BE SELF-SUPPORTING; REMOVING THE REQUIREMENT FOR HIRING A CURATOR; REMOVING THE RESTRICTIONS ON THE USE OF THE CULTURAL AND AESTHETIC TRUST; AUTHORIZING LOANS FOR CAPITAL IMPROVEMENTS; AMENDING SECTIONS 22-3-1001, 22-3-1002, AND 22-3-1003, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 22-3-1001, MCA, is amended to read:

"22-3-1001. Purpose. The purpose of this part is to acquire and manage, on behalf of the state, properties that possess outstanding historical value, display exceptional qualities worth preserving, and are genuinely representative of the state's culture and history, ~~and demonstrate the ability to become economically self-supporting.~~ The Montana heritage preservation and development commission shall achieve this purpose by purchasing fee title interests in real and personal property and by managing those properties in a manner that protects the properties and encourages economic ~~independence~~ and educational uses."

Section 2. Section 22-3-1002, MCA, is amended to read:

"22-3-1002. Montana heritage preservation and development commission. (1) There is a Montana heritage preservation and development commission. The commission is attached to the department of commerce for administrative purposes only, pursuant to 2-15-121. The commission and the department shall negotiate a specific indirect administrative rate annually, with biennial review by a designated, appropriate legislative interim committee.

(2) The commission consists of 14 members. The members shall broadly represent the state. Nine members must be appointed by the governor, one member must be appointed by the president of the senate, and one member must be appointed by the speaker of the house. The director of the Montana historical society, the director of the department of fish, wildlife, and parks, and the director of the department of commerce shall

1 serve as members. Of the members appointed by the governor:

2 (a) one member must have extensive experience in managing facilities that cater to the needs of tourists;

3 (b) one member must have experience in community planning;

4 (c) one member must have experience in historic preservation;

5 (d) two members must have broad experience in business;

6 (e) one member must be a member of the tourism advisory council established in 2-15-1816;

7 (f) one member must be a Montana historian; and

8 (g) two members must be from the public at large.

9 (3) Except for the initial appointments, members appointed by the governor shall serve 3-year terms.
10 Legislative appointees shall serve 2-year terms. If a vacancy occurs, the appointing authority shall make an
11 appointment for the unexpired portion of the term.

12 (4) (a) The commission may employ:

13 (i) an executive director who has general responsibility for the selection and management of commission
14 staff, developing recommendations for the purchase of property, and overseeing the management of acquired
15 property;

16 ~~(ii) a curator who is responsible for the display and preservation of the acquired property; and~~

17 ~~(iii)~~(ii) other staff that the commission and the executive director determine are necessary to manage and
18 operate commission properties.

19 (b) The commission shall prescribe the duties and annual salary of the executive director, ~~the curator,~~
20 and other commission staff."
21

22 **Section 3.** Section 22-3-1003, MCA, is amended to read:

23 **"22-3-1003. Powers of commission -- contracts -- rules.** (1) (a) The Montana heritage preservation
24 and development commission may contract with private organizations to assist in carrying out the purpose of
25 22-3-1001. The term of a contract may not exceed 20 years.

26 (b) The provisions of Title 18 may not be construed as prohibiting contracts under this section from being
27 let by direct negotiation. The contracts may be entered into directly with a vendor and are not subject to state
28 procurement laws.

29 (c) Architectural and engineering review and approval do not apply to the historic renovation projects
30 or projects at historic sites unless stated in specific state appropriations for construction permitted under the

1 commission's jurisdiction.

2 (d) The contracts must provide for the payment of prevailing wages.

3 (e) A contract for supplies or services, or both, may be negotiated in accordance with commission rules.

4 (f) Management activities must be undertaken to encourage the profitable operation of properties.

5 (g) Contracts may include the lease of property managed by the commission. Provisions for the renewal
6 of a contract must be contained in the contract.

7 (2) (a) Except as provided in subsection (2)(b), the commission may not contract for the construction of
8 a building, as defined in 18-2-101, in excess of \$300,000 without the consent of the legislature. Building
9 construction must be in conformity with applicable guidelines developed by the national park service of the U.S.
10 department of the interior, the Montana historical society, and the Montana department of fish, wildlife, and parks.
11 Funding for these projects must pass through directly to the commission.

12 (b) The commission may contract for the preservation, stabilization, or maintenance of existing structures
13 or buildings for an amount that exceeds \$300,000 without legislative consent if the commission determines that
14 waiting for legislative consent would cause unnecessary damage to the structures or buildings or would result
15 in a significant increase in cost to conduct those activities in the future.

16 (3) ~~(a) Subject to subsection (3)(b), the~~ The commission, as part of a contract, shall require that a portion
17 of any profit be reinvested in the property and that a portion be used to pay the administrative costs of the
18 property and the commission.

19 ~~(b) (i) Until the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall~~
20 ~~deposit the portion of profits not used for administrative costs and restoration of the properties in the cultural and~~
21 ~~aesthetic trust.~~

22 ~~—— (ii) Once the balance in the cultural and aesthetic trust reaches \$7,750,000, the commission shall deposit~~
23 ~~the portion of profits not used for administrative costs and restoration of the properties in the general fund.~~

24 ~~—— (c) It is the intent of the 58th legislature that no general fund money be provided for the operations and~~
25 ~~maintenance of Virginia City and Nevada City beyond what has been appropriated by the 55th legislature.~~

26 (4) The commission may solicit funds from other sources, including the federal government, for the
27 purchase, management, and operation of properties.

28 (5) (a) The commission may use volunteers to further the purposes of this part.

29 (b) The commission and volunteers stand in the relationship of employer and employee for purposes
30 of and as those terms are defined in Title 39, chapter 71. The commission shall provide each volunteer with

workers' compensation coverage, as provided in Title 39, chapter 71, during the course of the volunteer's assistance.

(6) Volunteers are not salaried employees and are not entitled to wages and benefits. The commission may, in its discretion, reimburse volunteers for their otherwise uncompensated out-of-pocket expenses, including but not limited to their expenditures for transportation, food, and lodging.

(7) The commission shall establish a subcommittee composed of an equal number of members of the Montana historical society board of trustees and commission members to review and recommend the sale of personal property from the former Bovey assets acquired by the 55th legislature. A recommendation to sell may be presented to the commission only if the recommendation is supported by a majority of the members of the subcommittee.

(8) The commission shall adopt rules establishing a policy for making acquisitions and sales of real and personal property. With respect to each acquisition or sale, the policy must give consideration to:

(a) whether the property represents the state's culture and history;

(b) whether the property can ~~become self-supporting~~ be financially sustained;

(c) whether the property can contribute to the economic and social enrichment of the state;

(d) whether the property lends itself to programs to interpret Montana history;

(e) whether the acquisition or sale will create significant social and economic impacts to affected local governments and the state;

(f) whether the sale is supported by the director of the Montana historical society;

(g) whether the commission should include any preservation covenants in a proposed sale agreement for real property;

(h) whether the commission should incorporate any design review ordinances established by Virginia City into a proposed sale agreement for real property; and

(i) other matters that the commission considers necessary or appropriate.

(9) Except as provided in subsection (11), the proceeds of any sale under subsection (8) must be placed in the account established in 22-3-1004.

(10) Public notice and the opportunity for a hearing must be given in the geographical area of a proposed acquisition or sale of real property before a final decision to acquire or sell the property is made. The commission shall approve proposals for acquisition or sale of real property and recommend the approved proposal to the board of land commissioners.

(11) The commission, working with the board of investments, may establish trust funds to benefit historic properties. Interest from any trust fund established under this subsection must be used to preserve and manage assets owned by the commission. Funds from the sale of personal property from the Bovey assets must be placed in a trust fund, and interest from the trust fund must be used to manage and protect the remaining personal property.

(12) The commission may seek loans from the board of investments for capital improvements at historic sites owned by the commission. Total outstanding loans may not exceed \$300,000.

~~(12)~~(13) Prior to the convening of each regular session, the commission shall report to the governor and the legislature, as provided in 5-11-210, concerning financial activities during the prior biennium, including the acquisition or sale of any assets."

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2009.

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